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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

SUSAN KATZAKIAN, individually
and on behalf of all others similarly
situated,

Plaintiff,
vs.
CONTINENTAL CREDIT CONTROL,
INC., and DOES 1 through 10,
inclusive, and each of them,
Defendant.

) Case No.
)
)
CLASS ACTION
)
**COMPLAINT FOR VIOLATIONS
OF:**
)
1. NEGLIGENT VIOLATIONS OF
THE TELEPHONE CONSUMER
PROTECTION ACT [47 U.S.C.
§227 ET SEQ.]
2. WILLFUL VIOLATIONS OF THE
TELEPHONE CONSUMER
PROTECTION ACT [47 U.S.C.
§227 ET SEQ.]
3. FAIR DEBT COLLECTION
PRACTICES ACT, 15 U.S.C. §
1692, ET SEQ.]
4. VIOLATIONS OF THE
ROSENTHAL FAIR DEBT
COLLECTION PRACTICES ACT
[CAL. CIV. CODE §1788 ET
SEQ.]
)
DEMAND FOR JURY TRIAL

1 Plaintiff SUSAN KATZAKIAN (“Plaintiff”), individually and on behalf of
2 all others similarly situated, alleges the following against Defendant
3 CONTINENTAL CREDIT CONTROL, INC. upon information and belief based
4 upon personal knowledge:

5 **INTRODUCTION**

6 1. Plaintiff’s Class Action Complaint is brought pursuant to the
7 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (“TCPA”).

8 2. Plaintiff, individually, and on behalf of all others similarly situated,
9 brings this Complaint for damages, injunctive relief, and any other available legal
10 or equitable remedies, resulting from the illegal actions of Defendant in
11 negligently, knowingly, and/or willfully contacting Plaintiff no Plaintiff’s
12 telephone, thereby the TCPA, 47 U.S.C. § 227. Plaintiff alleges as follows upon
13 personal knowledge as to herself and her own acts and experiences, and, as to all
14 other matters, upon information and belief, including investigation conducted by
15 his attorneys.

16 3. In addition to Plaintiff’s Class Claims, Plaintiff also brings an action
17 for damages as an individual consumer for Defendant’s violations of the federal
18 Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter
19 “FDCPA”) and the Rosenthal Fair Debt Collection Practices Act, Cal Civ. Code
20 §1788, *et seq.* (hereinafter “RFDCPA”) which prohibit debt collectors from
21 engaging in abusive, deceptive, and unfair practices.

22 **JURISDICTION AND VENUE**

23 4. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
24 a resident of California, seeks relief on behalf of a Class, which will result in at
25 least one class member belonging to a different state than that of Defendant, a
26 California company. Plaintiff also seeks up to \$1,500.00 in damages for each call

1 in violation of the TCPA, which, when aggregated among a proposed class in the
2 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.
3 Therefore, both diversity jurisdiction and the damages threshold under the Class
4 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

5 5. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 over
6 Plaintiff’s claims arising under the FDCPA, 15 U.S.C. § 1692, *et seq.*. Ancillary to
7 this claim, this Court has jurisdiction pursuant to 28 U.S.C. § 1367(a) over
8 Plaintiff’s claims arising under the RFDCPA, Cal. Civ. Code § 1788, *et seq.*.

9 6. Venue is proper in the United States District Court for the Eastern
10 District of California pursuant to 28 U.S.C. § 1331(b)(2) because Defendant does
11 business within the State of California and Plaintiff resides within this District.
12

PARTIES

13 7. Plaintiff, SUSAN KATZAKIAN (“Plaintiff”), is a natural person
14 residing in Fresno County in the state of California, and is a “person” as defined
15 by 47 U.S.C. § 153(39). Furthermore, Plaintiff is a “consumer” as defined by the
16 FDCPA, 15 U.S.C. § 1692a(3) and a “debtor” as defined by the RFDCPA, Cal.
17 Civ. Code § 1788.2(h).

18 8. At all relevant times herein, DEFENDANT, CONTINENTAL
19 CREDIT CONTROL, INC. (“Defendant”), is debt collection company, and is a
20 “person” as defined by 47 U.S.C. § 153(39). Furthermore, Defendant, at all
21 relevant times herein, was a company engaged, by use of the mails and telephone,
22 in the business of collecting a debt from Plaintiff which qualifies as a “debt,” as
23 defined by 15 U.S.C. § 1692a(5). Defendant regularly attempts to collect debts
24 alleged to be due another, and therefore is a “debt collector” as defined by the
25 FDCPA, 15 U.S.C. § 1692a(6) and the RFDCPA, Cal. Civ. Code § 1788.2(c).
26
27
28

9. The above named Defendant, and its subsidiaries and agents, are collectively referred to as "Defendants." The true names and capacities of the Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the Complaint to reflect the true names and capacities of the DOE Defendants when such identities become known.

10. Plaintiff is informed and believes that at all relevant times, each and every Defendant was acting as an agent and/or employee of each of the other Defendants and was acting within the course and scope of said agency and/or employment with the full knowledge and consent of each of the other Defendants. Plaintiff is informed and believes that each of the acts and/or omissions complained of herein was made known to, and ratified by, each of the other Defendants.

FACTUAL ALLEGATIONS – TCPA

11. Beginning in or around November of 2019, Defendant contacted Plaintiff on her telephone number ending in -9649, in an effort to collect an alleged debt owed from Plaintiff.

12. Defendant called Plaintiff from telephone numbers confirmed to belong to Defendant, including without limitation (805) 324-8895.

13. In its efforts to collect the alleged debt owed from Plaintiff, Defendant used an “automatic telephone dialing system,” as defined by 47 U.S.C. § 227(a)(1) to place its daily calls to Plaintiff seeking to collect an alleged debt owed.

14. Furthermore, at one or more instance during these calls, Defendant utilized an “artificial or prerecorded voice” as prohibited by 47 U.S.C. §

1 227(b)(1)(A).

2 15. Defendant's calls constituted calls that were not for emergency
3 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

4 16. Defendant's calls were placed to telephone number assigned to a
5 telephone service for which Plaintiff incurs a charge for incoming calls pursuant to
6 47 U.S.C. § 227(b)(1).

7 17. During all relevant times, Defendant did not possess Plaintiff's "prior
8 express consent" to receive calls using an automatic telephone dialing system or an
9 artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §
10 227(b)(1)(A). Furthermore, Plaintiff orally revoked any and all consent to be
11 contacted using an automated telephone dialing system, to the extent any ever
12 existed.

13 **FACTUAL ALLEGATIONS – FDCPA**

14 18. In addition to the facts pled above, at various times prior to the filing
15 of the instant complaint, including within one year preceding the filing of this
16 complaint, Defendant contacted Plaintiff in an attempt to collect an alleged
17 outstanding debt.

18 19. On or about November through December of 2019, Plaintiff began
20 receiving numerous calls from Defendant.

21 20. Each of these calls were made to Plaintiff in connection with
22 collection on an alleged debt.

23 21. On several occasions, Plaintiff told Defendant to stop calling her, but
24 Defendant continued to call.

25 22. Furthermore, Plaintiff did not owe the alleged debt question..

26 23. Defendant's conduct violated the FDCPA and RFDCPA in multiple
27 ways, including but not limited to:
28

- 1 a) Causing a telephone to ring repeatedly or continuously to annoy
2 Plaintiff (Cal. Civ. Code § 1788.11(d));
3
- 4 b) Communicating, by telephone or in person, with Plaintiff with such
5 frequency as to be unreasonable and to constitute an harassment to
6 Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e));
7
- 8 c) Causing Plaintiffs telephone to ring repeatedly or continuously with
9 intent to harass, annoy or abuse Plaintiff (15 U.S.C. § 1692d(5));
10
- 11 d) Communicating with Plaintiff at times or places which were known
12 or should have been known to be inconvenient for Plaintiff (15
13 U.S.C. § 1692c(a)(1)); and
14
- 15 e) Engaging in conduct the natural consequence of which is to harass,
16 oppress, or abuse Plaintiff (15 U.S.C. § 1692d)).
17

18 24. As a result of the above violations of the FDCPA and RFDCPA,
19 Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal
20 humiliation, embarrassment, mental anguish and emotional distress, and
21 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,
22 and costs and attorney's fees.
23

CLASS ACTION ALLEGATIONS

24 25. Plaintiff brings this action individually and on behalf of all others
25 similarly situated, as a member of the proposed class (hereafter "The Class")
26 defined as follows:
27

28 All persons within the United States who received any
29 telephone calls from Defendant to said person's cellular
30 telephone made through the use of any automatic
31 telephone dialing system or an artificial or prerecorded
32 voice and such person had not previously consented to
33

1 receiving such calls within the four years prior to the
2 filing of this Complaint

3 26. Plaintiff represents, and is a member of, The Class, consisting of All
4 persons within the United States who received any collection telephone calls from
5 Defendant to said person's cellular telephone made through the use of any
6 automatic telephone dialing system or an artificial or prerecorded voice and such
7 person had not previously not provided their cellular telephone number to
8 Defendant within the four years prior to the filing of this Complaint.

9 27. Defendant, its employees and agents are excluded from The Class.
10 Plaintiff does not know the number of members in The Class, but believes the Class
11 members number in the thousands, if not more. Thus, this matter should be
12 certified as a Class Action to assist in the expeditious litigation of the matter.

13 28. The Class is so numerous that the individual joinder of all of its
14 members is impractical. While the exact number and identities of The Class
15 members are unknown to Plaintiff at this time and can only be ascertained through
16 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
17 The Class includes thousands of members. Plaintiff alleges that The Class
18 members may be ascertained by the records maintained by Defendant.

19 29. Plaintiff and members of The Class were harmed by the acts of
20 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
21 and Class members via their cellular telephones thereby causing Plaintiff and Class
22 members to incur certain charges or reduced telephone time for which Plaintiff and
23 Class members had previously paid by having to retrieve or administer messages
24 left by Defendant during those illegal calls, and invading the privacy of said
25 Plaintiff and Class members.

26 30. Common questions of fact and law exist as to all members of The
27 Class which predominate over any questions affecting only individual members of
28 The Class. These common legal and factual questions, which do not vary between

1 Class members, and which may be determined without reference to the individual
2 circumstances of any Class members, include, but are not limited to, the following:

- 3 a. Whether, within the four years prior to the filing of this
4 Complaint, Defendant made any collection call (other than a
5 call made for emergency purposes or made with the prior
6 express consent of the called party) to a Class member using
7 any automatic telephone dialing system or any artificial or
8 prerecorded voice to any telephone number assigned to a
9 cellular telephone service;
- 10 b. Whether Plaintiff and the Class members were damages
11 thereby, and the extent of damages for such violation; and
- 12 c. Whether Defendant should be enjoined from engaging in such
13 conduct in the future.

14 31. As a person that received numerous collection calls from Defendant
15 using an automatic telephone dialing system or an artificial or prerecorded voice,
16 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
17 typical of The Class.

18 32. Plaintiff will fairly and adequately protect the interests of the members
19 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
20 class actions.

21 33. A class action is superior to other available methods of fair and
22 efficient adjudication of this controversy, since individual litigation of the claims
23 of all Class members is impracticable. Even if every Class member could afford
24 individual litigation, the court system could not. It would be unduly burdensome
25 to the courts in which individual litigation of numerous issues would proceed.
26 Individualized litigation would also present the potential for varying, inconsistent,
27 or contradictory judgments and would magnify the delay and expense to all parties
28 and to the court system resulting from multiple trials of the same complex factual

issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class member.

34. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of the other Class members not parties to such adjudications or that would substantially impair or impede the ability of such non-party Class members to protect their interests.

35. Defendant has acted or refused to act in respects generally applicable to The Class, thereby making appropriate final and injunctive relief with regard to the members of The Class as a whole.

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

By Plaintiff and The Class Against Defendant

36. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above.

37. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

38. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

39. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

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1 **SECOND CAUSE OF ACTION**

2 **Knowing and/or Willful Violations of the Telephone Consumer Protection
3 Act**

4 **47 U.S.C. §227 et seq.**

5 **By Plaintiff and The Class Against Defendant**

6 40. Plaintiff repeats and incorporates by reference into this cause of
7 action the allegations set forth above.

8 41. The foregoing acts and omissions of Defendant constitute numerous
9 and multiple knowing and/or willful violations of the TCPA, including but not
10 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
11 *seq.*

12 42. As a result of Defendant's knowing and/or willful violations of *47*
13 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
14 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
15 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

16 43. Plaintiff and the Class members are also entitled to and seek
17 injunctive relief prohibiting such conduct in the future.

18 **THIRD CAUSE OF ACTION**

19 **Violations of the Federal Fair Debt Collection Practices Act**

20 **15 U.S.C. § 1692 et seq.**

21 **By Plaintiff, Individually, Against Defendant**

22 44. Plaintiff repeats and reincorporates by reference into this cause of
23 action allegations set forth above.

25 45. To the extent that Defendant's actions, counted above, violated the
26 RFDCPA, those actions were done knowingly and willfully.

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1 **FOURTH CAUSE OF ACTION**

2 **Violations of the Rosenthal Fair Debt Collection Practices Act**

3 **Cal. Civ. Code § 1788 et seq.**

4 **By Plaintiff, Individually, Against Defendant**

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6 46. Plaintiff repeats and reincorporates by reference into this cause of
7 action allegations set forth above.

8 47. To the extent that Defendant's actions, counted above, violated the
9 RFDCPA, those actions were done knowingly and willfully.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

13 **FIRST CAUSE OF ACTION**

14 **Negligent Violations of the Telephone Consumer Protection Act**

15 **47 U.S.C. §227 et seq.**

- 16
- 17 • As a result of Defendant's negligent violations of 47 U.S.C.
18 §227(b)(1), Plaintiff and the Class members are entitled to and
19 request \$500 in statutory damages, for each and every violation,
20 pursuant to 47 U.S.C. 227(b)(3)(B).
- 21 • Any and all other relief that the Court deems just and proper.

22 **SECOND CAUSE OF ACTION**

23 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

24 **Act**

25 **47 U.S.C. §227 et seq.**

- 26
- 27 • As a result of Defendant's willful and/or knowing violations of 47
28 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to
 and request treble damages, as provided by statute, up to \$1,500, for

1 each and every violation, pursuant to *47 U.S.C. §227(b)(3)(B)* and *47*
2 *U.S.C. §227(b)(3)(C)*.

- 3 • Any and all other relief that the Court deems just and proper.

4 **THIRD CAUSE OF ACTION**

5 **Violations of the Federal Fair Debt Collection Practices Act**

6 **15 U.S.C. § 1692 et seq.**

7 WHEREFORE, Plaintiff respectfully prays that judgment be entered against
8 Defendant for the following:

- 9
10 A. Actual damages;
11 B. Statutory damages for willful and negligent violations;
12 C. Costs and reasonable attorney's fees,
13 D. For such other and further relief as may be just and proper.

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15 **FOURTH CAUSE OF ACTION**

16 **Violations of the Rosenthal Fair Debt Collection Practices Act**

17 **Cal. Civ. Code § 1788 et seq.**

18 WHEREFORE, Plaintiff respectfully prays that judgment be entered against
19 Defendant for the following:

- 20
21 A. Actual damages;
22 B. Statutory damages for willful and negligent violations;
23 C. Costs and reasonable attorney's fees,
24 D. For such other and further relief as may be just and proper.

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TRIAL BY JURY

48. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted this 11th day of February, 2020.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff